

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE BASU GROUP INC., :
Plaintiff, : Civil Action No.
v. :
SEVENTH AVENUE, INC. : JURY DEMANDED
Defendant. :
-----X

COMPLAINT

Plaintiff, through its attorneys, for its Complaint against the Defendant, alleges:

JURISDICTION AND VENUE

1. This cause of action arises under the Copyright Laws of the United States, 17 U.S.C. §101 et. seq.
2. Jurisdiction of the subject matter of this action is conferred on this Court by, at least, 28 U.S.C. §§ 1331 and 1338(a).
3. Venue is proper in this judicial district pursuant to, at least, 28 U.S.C. §§1391 and 1400(a).

THE PARTIES

4. Plaintiff The Basu Group Inc. (hereinafter “Basu”), is a corporation of the state of New Jersey, with an office and place of business at 1003 Berkshire Drive, Princeton, NJ 08540.
5. Basu has been, and continues to be, a well-known and well-regarded innovator of unique works of art used in connection with its lines of women’s bags, including but not limited

to, handbags, purses and wallets.

6. Basu's goods are of the highest quality from the viewpoint of both workmanship and design, and are so regarded by the consuming public and associated trades.

7. Upon information and belief, Seventh Avenue, Inc. (hereinafter "SA" or "Defendant"), is a corporation of the state of Wisconsin having a place of business at 1112 7th Avenue, Monroe, Wisconsin 53566, and is the owner and operator of the retail, internet website located at www.seventhavenue.com and also distributes a consumer goods catalog nationwide.

8. Upon information and belief, Defendant regularly offers for sale and sells through its stated website and catalogs consumer goods to consumers located throughout the United States, including, but not limited to, to consumers located and/or residing in the state of New York and this judicial district.

9. Upon information and belief, and as hereinafter further alleged, Defendant has offered for sale and/or sold handbags bearing a design that infringes a US Copyright owned by Basu to consumers located and/or residing in the state of New York and this judicial district.

10. Upon information and belief, Defendant transacts business within this district, derives substantial revenue from intrastate and interstate commerce and has committed tortious acts within this district and also without this district having injurious consequences within this district, and Defendant is otherwise within the jurisdiction of this Court.

FIRST CAUSE OF ACTION FOR COPYRIGHT INFRINGEMENT
ARTWORK - PEACOCK FEATHER #1

11. Basu repeats and re-alleges paragraphs 1-10 hereof, as if fully set forth herein.

12. Basu is the owner of a certain original work of art entitled "Peacock Feather #1", and has used said artwork for a design found on Basu's goods (hereinafter the "Peacock Feather Design").

13. The Peacock Feather Design consists of material which is wholly original and is copyrightable subject matter under the Copyright Laws of the United States, 17 U.S.C. Sec. 101, et. seq.

14. Basu has duly complied with the provisions of the Copyright Laws of the United States and has secured rights and privileges in and to the Peacock Feather Design, and Basu has duly requested and received from the Register of Copyrights a Certificate of Registration pertaining to the Peacock Feather Design, identified as VA 1-652-678, having an effective date of February 10, 2009. A copy of the issued Certificate of Registration for the Peacock Feather Design, along with a copy of the registered Peacock Feather Design, is attached hereto as Exhibit "A".

15. All copies of said artwork, including all of Basu's goods bearing the Peacock Feather Design have been sold in conformity with the provisions of the Copyright Laws of the United States.

16. Defendant has infringed Basu's copyright rights in the Peacock Feather Design by manufacturing or having manufactured for it, printing or having printed for it, reprinting or having reprinted for it, painting or having painted for it, publishing, displaying, importing, exporting, vending, distributing, offering for sale, selling, promoting and/or advertising at least handbags bearing significant copies of the Peacock Feather Design.

17. In particular, Defendant is currently selling on at least its website a handbag it calls "Hand-Painted Leather Peacock Bag", under Item No. #D7724955, which bag bears infringing copies of the Peacock Feather Design. A copy of Defendant's website page showing the sale of such bag, is attached hereto as Exhibit "B".

18. All of these activities of Defendant have been, and if continuing are, in violation

of Basu's rights under 17 U.S.C. Sec. 101 et. seq. in the Peacock Feather Design.

19. Based upon an earlier lawsuit, in this same judicial district between these same parties, Docket No. 12-cv-05565 (SN) (now closed), wherein Basu asserted the same Peacock Feather Design against Defendant, Defendant had full and specific knowledge of Basu's copyright rights in the Peacock Feather Design prior to the creation of the infringing design found on Defendant's Hand-Painted Leather Peacock Bag.

20. Defendant has also had knowledge of Basu's claim of infringement since its receipt of an email letter to Defendant's counsel from the earlier action, dated December 9, 2015, notifying Defendant of Basu's new infringement claim.

21. Based upon Defendant's prior knowledge of Basu's rights in the Peacock Feather Design, all of Defendant's activities in relation to the infringing design found on Defendant's Hand-Painted Leather Peacock Bag have been in willful violation of Basu's rights.

22. All of the acts of Defendant are without the permission, license or consent of Basu and will continue to cause irreparable injury unless enjoined by the Court.

23. Defendant has been unjustly enriched and Basu is entitled to an accounting of all defendant's profits, Basu's damages and the costs of the action, including but not limited to, Basu's legal fees and costs.

24. Defendant's foregoing activities have damaged Basu in an amount as yet unknown, but if the foregoing activities of Defendant continue, Basu believes damages will exceed at least the sum of \$100,000.

JURY DEMANDED

25. Basu herein demands trial by jury.

WHEREFORE, The Basu Group Inc. demands:

A. That Defendant, its employees, owners, members, agents, servants, related companies, and all persons and/or entities in privity with them, or any of them, be permanently enjoined from infringing the copyright of Basu in the copyrighted Peacock Feather Design as alleged herein, in any manner including, but not limited to, manufacturing or having manufactured for them, printing or having printed for them, reprinting or having reprinted for them, painting or having painted for them, importing, exporting, illustrating, publishing, displaying, vending, distributing, offering for sale, selling, shipping, delivering, promoting and/or advertising any copies of such work which are the subject of said copyright, including but not limited to an injunction against Defendant from using any unauthorized copies of the copyrighted design, or causing and/or participating in such manufacturing, printing, reprinting, painting, importing, exporting, publishing, displaying, distributing, offering to sell, selling, promoting, or advertising of copies of such work;

B. That Defendant be required to immediately deliver up for destruction all items bearing the infringing design, including but not limited to, all infringing bags, including but not limited to, handbags, purses and/or wallets, which are in their possession or under their control, and to deliver up for destruction all material for implementing such infringing works;

C. That Defendant be required to disclose to Basu the identities, including the names, addresses, phone and facsimile numbers and e-mail addresses, of all of their customers of the infringing items;

D. That Defendant be required to disclose to Basu the identities, including the names, addresses, phone and facsimile numbers and e-mail addresses, of all persons, suppliers, manufacturers and/or artists who assisted them in creating the infringing design and in producing

the bags bearing the infringing design;

E. That Defendant be required to pay Basu all damages as Basu sustained in consequence of Defendant's infringements of Basu's copyright, and to account for all gains, profits and advantages derived by Defendant from said infringements, whether direct, contributory or induced, and whether joint or several, and that such award for damages be increased due to the willful and wanton nature thereof;

F. That Defendant pay to Basu its costs of this action, including Basu's reasonable attorneys' fees, as the Court may allow Basu; and

G. That Basu be granted such other and further relief as the Court may deem just.

PERGAMENT & CEPEDA LLP
Attorneys for Plaintiff
163 Madison Avenue, Suite 110
Morristown, New Jersey 07960
Telephone (973) 998-7722

Dated: January 20, 2016

By: /Michael R. Gilman/
Michael R. Gilman (MG 7608)
mgilman@pergamentcepeda.com

EXHIBIT A

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

A handwritten signature in cursive script that reads "Marybeth Peters".

Register of Copyrights, United States of America

Registration Number:

VA 1-652-678

Effective date of registration:

February 10, 2009

Title

Title of Work: Peacock Feather #1

Completion/ Publication

Year of Completion: 2007

Date of 1st Publication: January 1, 2008

Nation of 1st Publication: United States

Author

Author: The Basu Group Inc.

Author Created: 2-D artwork

Work made for hire: Yes

Domiciled in: United States

Author: Societe Maison De Cuir

Author Created: 2-D artwork

Work made for hire: Yes

Domiciled in: India

Author: Soumitra Roy

Author Created: 2-D artwork

Work made for hire: No

Domiciled in: India

Copyright claimant

Copyright Claimant: The Basu Group Inc.

2227 US Highway One, #162, North Brunswick, NJ, 08902, United States

Transfer Statement: By written agreement

Rights and Permissions

Organization Name: The Basu Group Inc.

Name: To whom it may concern

Address: 2227 US Highway One

#162

North Brunswick, NJ 08902 United States

Certification

Name: Michael R. Gilman

Date: February 6, 2009

Correspondence: Yes



EXHIBIT B

seventhavenue.com

Lili Ha Build your A... Business Us... Files - OneD... Files - OneD... Kay Unger S... J Renee Sho... @jreneeshoe... Anuschka, P... Hand-Painte... +

English **Español**

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Home Page > Hand-Painted Leather Peacock Bag

Hand-Painted Leather Peacock Bag
\$71.99
\$20.00 per month

★★★★★ [Read Review \(0\)](#) | [Write a review](#)

An accessory that adds instant wow to your look, this one-of-a-kind hand-painted bag is covered front and back with a fantasy representation of peacock feathers. Three compartments, 2 side pockets and 2 interior pockets make organization easy. Two zip closure compartments, one magnetic snap compartment. Adjustable shoulder strap. 10" l x 3 1/2" w x 7" h.

Hand-Painted Leather Peacock Bag #D7724955 \$71.99

Quantity: Ship to: Me

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